

CASE NO.: 50T5731.01  
Serial No.: 10/802,589  
January 11, 2008  
Page 7

PATENT  
Filed: March 17, 2004

Remarks

Reconsideration of the above-captioned application is respectfully requested.

a. Claims 1-4 have been rejected under 35 U.S.C. §102 as being anticipated by Pontenzone et al., USPP 2002/0152278.

(b) Claims 5, 6, 13, 14, and 21 have been rejected under 35 U.S.C. §103 as being unpatentable over Pontenzone et al. in view of Hempleman et al., USPN 6,243,725.

(c) Claims 7-12, 15-20, and 22, of which Claims 8 and 16 are independent, have been rejected under 35 U.S.C. §103 as being unpatentable over Pontenzone et al. in view of Asmussen et al., USPP 2002/0042923.

The fact that Applicant has focussed its comments distinguishing the present claims from the applied references and countering certain rejections must not be construed as acquiescence in other portions of rejections not specifically addressed.

Anticipation Rejections, Claims 1, 2, and 4

As now amended, Claim 1 requires generating a search vector by accessing a database containing data selected from the group including third party marketing data and demographic data. The anticipation rejection fails to mention any of these components and indeed the relied-upon portions (paragraphs 8-11) of Pontenzone et al. do not appear to teach or suggest them. Instead, the relied-upon paragraphs of the reference appear to teach that playlists are pre-generated for two levels of users, with the higher level of user being permitted to establish genres and to define the profile of the lower level user. Since Pontenzone et al. fails to teach or

1168-1119.AMD

CASE NO.: 50T5731.01

Serial No.: 10/802,589

January 11, 2008

Page 8

PATENT

Filed: March 17, 2004

suggest generating a search vector by accessing a database including third party marketing data and demographic data, the rejections are overcome.

**Obviousness Rejections, Claims 5, 6, 13, 14, and 21**

The rejection of these claims fails to allege that Hempleman et al. uses metadata for billing, much less metadata associated with a title as required by Claims 5, 13, and 21, and indeed the reference nowhere even mentions the word "metadata". For this additional reason, the claims rejected under this section as well as independent Claim 16, which has been amended to recite the limitations formerly contained in now-canceled dependent Claim 21, are patentable.

**Obviousness Rejections, Claims 7-12, 15-20, and 22**

Addressing the rejection of the sole remaining independent claim (Claim 8) at issue, Applicant believes that an important but unmentioned difference exists between Asmussen et al. and Claim 8. With more specificity, Asmussen et al. "starts by" (abstract) crawling a content metadata database to construct a "metadata element" database of indexed word items with vector values. As taught in both the abstract of Asmussen et al. and in paragraph 21, when a user inputs a search request, the vector value of the request is compared to vector values in the "metadata element" database to return suggested content. Only *after* content has been searched and prospective results returned does Asmussen et al. resort to content filters (including a user history filter and a user profile filter) to prune the results, with the pruned results being ranked according to similarities to previously accessed content by that user, paragraph 27.

1168-119.AMD

CASE NO.: 50T5731.01  
Serial No.: 10/802,589  
January 11, 2008  
Page 9

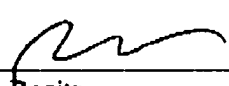
PATENT  
Filed: March 17, 2004

In marked contrast, Claim 8 recites almost the opposite dependency: first accessing and retrieving historical search and purchasing data based on profile data associated with the user, and then *using retrieved historical search and purchasing data, searching* for multimedia content, which is used to generate a playlist. Asmussen et al. simply cannot be said to do this because its relied-upon filters and ranking occur *on already-generated* search results, not as *bases* on which to conduct the search itself.

Thus, even if Asmussen et al. were to be combined with the primary reference as proposed, the present invention of Claim 8 would not result.

The Examiner is cordially invited to telephone the undersigned at (619) 338-8075 for any reason which would advance the instant application to allowance.

Respectfully submitted,

  
\_\_\_\_\_  
John L. Rogitz  
Registration No. 33,549  
Attorney of Record  
750 B Street, Suite 3120  
San Diego, CA 92101  
Telephone: (619) 338-8075

JLR:jg

1166-119.AMD